

The US Healthcare Debate: A History and Implications

Written by Christopher Wood

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Introduction

Understanding public perception of the state of the health care industry in the United States is essential in explaining the difficulties faced by the Obama administration in passing reform. Robert Blendon et al, who have undertaken a comprehensive study regarding America's perception of health care cost, access and quality, states that:

"For more than two decades, polls have shown that Americans are dissatisfied with their current health care system. However, the public's views on how to change the current system are more conflicted than often suggested by individual poll results. At the same time, Americans are both dissatisfied with the current health care system and relatively satisfied with their own health care arrangements." [1]

Due to this conflict between the American public's distrust of the federal government and their views on the need for an overhaul of the health care system, there is a noticeable gap between the belief that change is necessary and actual support for specific reform plans designed to achieve that change [2].

The conflicted nature of the health care issue in the United States detailed here makes identifying the difficulties faced by the Obama administration in passing reform no easy task. This investigation will tackle the inquiry in a methodical manner. Chapter One will look at with the Constitutional and procedural nuances of the system that make enacting comprehensive reforms of this type, an inherently difficult task. Chapter Two takes the form of a brief analysis of the failed attempt at reform under the Clinton administration. Through this a better understanding of the challenges faced by Mr Obama will be established. In Chapter Three the investigation turns towards a detailed analysis of the contents of the final bill and the various arguments for and against the reform. Finally, Chapter Four looks at the implications of the successful legislation on the Obama administration, focusing on the 2012 presidential election.

The key findings of this investigation are as follows.

In recent years, the vacuum of support for health care reform proposals can be largely attributed to financial concerns. The significant financial deficit faced by the Clinton Administration during its failed attempt at reform, can certainly be seen as one of the key elements in its lack of success. When we consider that the deficit in 2009 was between five and six times that of 1993, we are able to begin to form a picture of the financial difficulties faced by the Obama administration.

Added to this is the notion that the American public places little trust in the power of the president when it comes to domestic issues. Traditionally, the perception of the presidency is that the office is significantly stronger during war time, a theory that is validated by the significant foreign policy muscle afforded to the office. In short, there is a strong notion that the American public does not believe that the presidential office has enough power in the domestic arena to pass comprehensive health care reform. The notion that the White House is a weak office is a somewhat common theme in modern scholarship. The so-called 'executive branch' of the federal government has suffered a number of significant attacks on its power, the most notable of which are: the series of powers taken away from the office following the Watergate Scandal, the sharing of the budgetary power with the Congressional Budgetary Office (CBO)

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and ongoing degradation at the hands of the modern mass media, relating to the president's ability to influence the general public.

However, these are not the only factors in the difficulties faced in passing health care reform in the United States. The Constitution of the United States was written with the specific goal of protecting the rights of the minority and dividing power among the different branches of the federal government. As such, the president has very limited power in the legislative process, instead he must be content with merely shifting the topic of the political debate and attempting to use his significant exposure to influence the opinions of the American public.

Lastly, it is essential to consider that the issue of health care in the United States is far from simple. There is no obvious or 'correct' way in which to fix the numerous and significant problems that are abundant within the system. Further to this, there are strong arguments in favour of the system seen in the United States prior to the successful reform, the most prevalent of which is the high quality of care that is maintained. However, though practical issues such as state autonomy and moral issues including state-sponsored abortion play a huge part in the debate on health care reform, it is the financial implications of any reform plan that takes centre stage.

Overall it is a combination of the American public's lack of trust regarding the influence of the presidential office in the domestic arena, the ongoing weakening of the executive branch that fuels this perception, the nature of the Constitution of the United States and the complexities of the health care issue that can be seen as responsible for the difficulty faced by the Obama administration in passing health care reform.

Finally, turning to the effect of the law on Obama's chances of securing a second term in the White House, we observe an American public who are ill-educated on the benefits of the reform. Recent poll results suggest that as much as 50 percent of the population are unclear on the legal footing of the reform, and with the majority of the provisions not taking effect until 2014 onwards, Obama faces an uphill struggle to obtain the level of popular support he will require to hold onto power.

Chapter One – The Nature of the Constitution

'Playing Politics'

There are a wide range of factors that contribute to the difficulties faced by the Obama administration in passing health care reform. Undemocratic features of the U.S. Constitution combined with limits on the powers of the presidential office (both detailed in the Constitution and subsequently instituted by Congress), have had a tangible effect on both the American public's perception of the president's influence and the actual effectiveness of the executive branch on the legislative process.

First we will examine the notion that the problems faced by the Obama administration with regard to the passage of health care reform are rooted firmly in the Constitution of the United States. To understand this notion we will carefully examine the inherent limitations on the powers of not just the executive branch, but on all sections of the federal government detailed in the Constitution.

Morris Fiorina states that: "the founders "played politics"... [and that] they compromised to win the support of voters, like any effective politician in a democracy"[3]. The notion that a politician is subject to the will of his or her constituents is not only inherently obvious, especially in the United States where we observe an effectively perpetual election campaign, but also essential to our understanding of the Constitution. Compromise is paramount for the passage of legislation in the United States. When attempting to pass health care reform, the Democratic party had a majority in both houses of the legislative branch of government, as well as control of the White House. Despite this, achieving the required number of votes to pass the reform legislation was an extremely difficult task, and one that required significant changes to the proposal in order for it to be ratified by both the Senate and the House of Representatives. The idea that progress is essentially impossible without compromise, begins to highlight the fundamental problem with the Constitutional system in the United States: the protection of the rights of the minority.

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One way in which we are able to observe this is through unequal representation in the second chamber of Congress (the Senate). Unlike the House of Representatives, the number of Senators elected to Congress is not dependent on population, but rather two Senators are elected from each federal unit, or in this case: each state[4]. Robert Dahl discusses this at length, stating:

“The main reason, perhaps the only reason, why second chambers exist in all federal systems is to preserve and protect *unequal* representation. That is, they exist primarily to ensure that representatives of small units cannot be readily outvoted by the representatives of large units.”[5]

In effect, the Senate system in the United States exists to protect against majority rule at national level, thereby creating an inequality of voting influence. In order to fully comprehend the significance of this system, we will take the example of two neighbouring states: California and Nevada. According to the US Census Bureau, in 2010 the population of Nevada was 2,700,551 and population of California was 37,253,956.[6] Despite the huge differences in population, both of these states elected two Senators, meaning that the vote of a resident of California is worth between thirteen and fourteen times less than the vote of a resident of Nevada. Not only does this mean that the democratic influence of the votes of individual citizens fluctuates significantly from state to state, but it also creates an inequality of representation. A Senator from Texas (with a population of 25,145,561) represents approximately 12.5 million citizens, while a Senator from Vermont (with a population of 625,741) represents just c.300,000 citizens[7].

Another important and highly relevant example of the undemocratic nature of the United States is the 60 percent majority required to obtain a cloture motion in Congress. Fiorina discusses the notion of a filibuster:

“According to present rules, a single senator can talk for as long as she or he desires, paralysing the chamber. When senators oppose a bill or presidential nominee but lack the votes to win a floor fight, they may vow to filibuster – to keep talking until the other side gives up. Often the threat of a filibuster is enough to force a compromise.”[8]

The only way to ensure that a filibuster will not take place is to obtain a vote for cloture, requiring the support of 60 senators rather than the usual majority of 51. It is therefore possible for a group of as few as 41 senators to stop the Senate from acting on any given piece of legislation[9]. This procedure does not have its roots in the original Constitution of the United States, but in a resolution adopted in 1917. Herman Pritchett discusses the inception of the cloture motion:

“In March, 1917, a filibuster... prevented adoption of a bill, favoured by seventy-five senators, to arm merchant ships against submarine attacks. President Wilson issued a bitter denunciation of this “little group of willful men”... [and when] the next session opened... the Senate approved a change in Rule 22 providing that the debate could be limited by a two-thirds vote of the Senate.”[10]

The greater majority (later amended to three-fifths) required to pass a cloture motion in the Senate can be seen as extremely relevant in any discussion of the Obama administration’s health care reforms. This is due to the fact that the Democratic party had to resort to using procedural manoeuvres in order to avoid the issue that they no longer had a 60 vote majority following the election of Scott Brown to the late Edward (Ted) Kennedy’s seat. This will be discussed in greater detail in Chapter Three.

Turning now to the substantial divides and limitations placed upon the different branches of the federal government, Fiorina states “It [the Constitution]... divided powers so well that, when a national majority turned against the tyranny of slavery, they could not end such an immoral institution peacefully”[11]. The case of slavery, although perhaps not an ideal example to compare with the passage of health care reform, perfectly highlights the notion of a protection of minority rights; even with national popular support, the government was unable to enact a fundamental change to the system. Perhaps the comparison with so called ‘Obamacare’ is in fact, quite poignant.

It is important now to look at the powers and limitations of the presidency. The Constitution affords the president a number of substantial and significant powers, however one of the most important powers of the Executive branch is

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not mentioned in the Constitution:

“Modern presidents rely on hundreds of public speeches each year to set forth their visions of the country’s future. They use their high profiles, as well as their responsibility to spread information about the government, as opportunities to persuade Congress and the public at large to support their policies.”[12]

The high level of public exposure afforded to the president, allows him to make regular public appearances extolling the virtues of their policies. This ability can be seen as essential in the passage of health care under the Obama administration; a large number of town hall meetings were held across the country in order to try and convince a sceptical nation that health care reform legislation was in the interest of the people of the United States.

One of the key issues with health care reform is the notion that it is not the place of the federal government to enact change to the system and that instead it is the responsibility of the individual states. Once again this is an issue that is rooted in the Constitution. Dahl states that:

“Whether the states would remain as fundamental constituents was therefore never a serious issue at the Convention; the only contested question was just how much autonomy, if any, they would yield to the central government”[13]

From this it is clear that it was an assumption of the Constitution that states would retain their fundamental constituency, not yielding all autonomy to the federal government. However, under the Obama administration’s health care plan, individual states have no choice but to conform to the rules of the new law as passed by Congress.

The issue of state autonomy v. the federal government is a common argument that pervades throughout the history of the United States. In order to further discuss this notion, we will look in some detail at the Supreme Court case of Vicky M. Lopez et al v. Monterey County et al. The case, ruled upon on January 20th 1999, can be seen as a key moment in the still ongoing political conflict regarding state autonomy. The case began in 1991 when Hispanic voters residing in the County sued the District Court, “alleging that the County had violated Section 5 [of the Voting Rights Act of 1965] by failing to obtain federal preclearance of the challenged ordinances”[14]. Although the District Court ordered the County to obtain federal preclearance, the County subsequently failed to submit the ordinances to the appropriate federal authorities, instead working on a new judicial election plan[15]. When the case was argued in the Supreme Court (November 2nd 1998 – January 20th 1999), it was decided that in order for Monterey County to change their voting laws, they must first obtain federal preclearance:

“*Held:* The Act’s preclearance requirements apply to measure mandates by a noncovered State to the extent that these measures will effect a voting change in a covered county. Accordingly, Monterey County is obligated to seek preclearance under Section 5 before giving effect to voting changes required by California law.”[16]

This ruling in favour of the federal over state authority can be seen as extremely significant with regard to the ongoing debate on levels of state autonomy. Furthermore, it also has significant implications on the passage of health care legislation; the initially proposed reform takes effect across the country, with no option for states to opt out of any aspect of the bill.

Following a great deal of discussion, the Founding Fathers decided that under the terms of the Constitution, all legislative power of the Federal government would be allocated to Congress[17]. This is an important fact to consider when discussing the passage of legislation. Although the President has substantial political muscle in a great number of areas, perhaps most notably the foreign policy arena, the executive branch does not have the power to directly draft legislation. Instead the president has the ‘Power to Recommend’[18]. Fiorina et al discuss this:

“The power to recommend gives the president an ability to initiate debate, to set the political agenda. Presidents can shut down old policy options, create new possibilities, and change the political dialogue.”[19]

The most important power afforded to the President here, is that of changing the political dialogue. This means that

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while the executive branch is not able to directly draft legislation on any given issue, it is able to change the subject of the political debate in Congress, thereby allowing the legislative branch (Congress) to debate and potentially pass legislation on the issue.

Another essential notion to consider in any discussion of the president's in the passage of legislation, is that of the ongoing weakening of the powers of the executive branch. Richard Neustadt identifies a number of reasons for the weakening of the presidency, the most relevant of which are: the trimming of the formal powers of the presidential office, an emphasis on the separations in the Constitutional system in the absence of any significant foreign advisory and, owing to revolution of the mass media, a void in the president's ability to use his significant exposure to influence public opinion[20].

There are a number of examples where we can observe the trimming of the president's formal powers. One of the most notable of these is the repeal, following the Watergate Scandal, of the president's discretionary powers vested in the office upon the declaration of a national emergency[21]. A key example of the use of this power can be seen in President Franklin D. Roosevelt's economic mobilization prior to the entry of the United States into the Second World War[22]. Another legacy of Nixon's time in the White House is the fact that modern presidents do not have any authority "to alter organizational arrangements in the so-called 'executive branch'"[23]. Further to this, they no longer have the "freedom to 'impound'"[24] (i.e. the ability to save funds appropriated by Congress to departments).

Significant though the first two limitations detailed above are, they do not have any direct effect on the passage of health care reform. They do however, have a significant effect on public perception of the presidential office. In short, it is possible to argue that due to numerous failed attempts at passing comprehensive health care reform, large sections of the American public no longer believe that the presidential office has the power to effectively and efficiently enact legislation on this scale.

Turning now to the third notion from Neustadt: that due to revolution of the mass media we now observe a void in the president's ability to use his significant exposure to influence the opinion of the American public. The central element of the problem is the fact that modern news networks are part of larger commercial enterprises and no longer afford the executive branch the same privileges (such as presidential 'fireside chats') that it once did. Neustadt provides a useful example of this:

"In 1995, President Clinton's requests for preemption were refused on at least two occasions. To rouse public support for his side of the argument that winter, when his Republican congressional opponents threatened to close the federal government, Clinton had to resort to paid television ads, as though his quarrel with Congress were the same thing as political campaigning."[25]

The reluctance of the modern media to afford presidents a platform on which they are able to put forward their policy agenda and convince the American public of its virtue, is extremely significant in the passage of health care. This can be seen in the large number of public addresses and town hall meetings in which President Obama took part. That is to say that due to the media's reticence to provide the presidential office with the exposure that it once had, the Obama administration's attempt to inform the American public of the virtues of its proposed reform undoubtedly had less of an effect. A telling reference to this notion was made by the president in a quip made on 27th April 2011 during a press conference regarding the release of his birth certificate:

"...let me comment first of all on the fact that... I can't get the networks to break in on all kinds of other discussions. I was just back there listening to Chuck [a member of the president's staff] who was saying "it's amazing that he's not going to be talking about national security". I would not have the networks breaking in if I was talking about that... and you know it."[26]

The notion of a degradation in the president's ability to influence the public is summarised by Neustadt: "This is not just a matter of recalcitrant media under private ownership. It is the matter, also, of what could well be a disappearing audience: the one Roosevelt once had, for free."[27]

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The second and third factors (separation of powers in the federal government and the president's ability to influence the public) in the weakening of the presidential office, as detailed by Neustadt, are intrinsically linked. The effect of the modern mass media on the president's ability to influence public opinion is significant. Not only does the lack of a foreign aggressor highlight the separations of power that are inherent in the system, but they also have a marked effect on the influence of presidential rhetoric. Jeffrey Cohen states:

"... foreign policy speeches, because of their nature, will have stronger impacts on the public's future orientations than other types of speeches, in particular, economic and domestic policy speeches." [28]

Not only does this continue to emphasise the notion that the public perceives presidents to be stronger in war time, but the fact that the president's ability to influence public opinion is less significant in the domestic arena, can be seen as extremely significant when we consider that the Obama administration faced the task of passing comprehensive and extremely expensive reform, having inherited a huge financial deficit.

Another limit that is more closely tied to the passage of legislation is that of a decrease in the role of the executive branch in the budgetary procedure. The development of the president's budget through the Office of Management and Budget (OMB), has in the past been used as a significant political tool, particularly in the 1980s and 1990s when budgetary priorities clearly defined the contrasting opinions of Republicans and Democrats [29]. Fiorina et al give us a number of useful examples of the politicisation of the budgetary process:

"Clinton's first OMB director, Leon Panetta, had been a Democratic member of Congress and later became the White House chief of staff, an admittedly political office. George W. Bush's first OMB Director, Mitchell Daniels, drew criticism for his advocacy of big tax cuts, and his second OMB director, Josh Bolton, helped negotiate congressional approval of a controversial \$87 billion reconstruction package for Iraq." [30]

In order to combat the executive branch's domination of the budgetary process, the Congressional Budgetary Office (CBO) was created in 1974. The CBO investigates the financial implications of legislation and generally evaluates the president's budget [31], in effect: "making joint what had been singular" [32]. Fiorina comments on the implications of this, stating that "The CBO's sophisticated analyses have enhanced its influence in Washington to the point where it now stands as a strong rival to OMB" [33].

The importance of Congress' influence on the budgetary process can be seen in the recent debate regarding the Obama administration's four year deficit reduction plan. A *Washington Post* article from 16th April 2011 provides details on the political conflict regarding House Republican's budget blueprint:

"... Obama contended that Republicans want to dismantle venerable safety net programs and cut taxes for the wealthy... he outlined a \$4 trillion deficit-reduction plan over 12 years... a goal, he said, that he can achieve through spending cuts, changes in government health care programs and tax increases" [34]

Here, the politicisation of the budgetary process is abundantly apparent, not least from the references to opposing policy positions. Furthermore, as the article continues, we are able to observe that the media and therefore the public, are consciously aware of this politicisation: "Obama's message represents his clearest attempt to place ideological distance with Republicans after months spent negotiating a compromise..." [35]. The paramount role of the huge financial deficit in the debate on health care reform makes any limiting of the president's power in regard to the budget extremely significant to this investigation.

The perception of a weak executive is perpetuated by the notion that presidents are stronger during times of war. This can be attributed to the significant influence of the executive branch in the foreign policy arena. In reference to the Cold War, Neustadt states that:

"Congress and the country were frequently reminded that the president alone could authorize the use of nuclear weapons, especially as mutual assured destruction came to be a manifest reality in the course of the 1970s." [36]

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The statement above clearly indicates the enhanced influence and importance of the presidential office during times of war. For Obama, taking office following two major conflicts (Afghanistan and Iraq) left the administration in a difficult political position. The foreign policy dimension of the administration in relation to these conflicts has done little to garner support for domestic policy. This can be largely attributed to the negative perception of the Iraq war due to issues over its legitimacy. Further to this, the perception of strong war time presidents leads to a strengthening of the assumption that the executive branch is not effective when it comes to enacting legislation.

The president's domination of the foreign policy arena is another power of the executive branch that has been attacked by Congress. Richard Haass discusses this in relation to Bill Clinton's presidency:

"From the moment that Republicans gained control of Congress in 1994, they put the White House and the entire country on notice that they intended to take an activist role in domestic and foreign affairs. The Contact with America called for a larger NATO and raised doubts about U.S. support for the United Nations." [37]

In the example of Bill Clinton, the absence of strong foreign policy initiatives from the White House led to Congress taking the reins. Following this, Congress and the White House engaged in a series of hearings and debates regarding issues such as the trading status for China and the sale of Iranian arms to Bosnia [38].

Overall, when discussing the ways in which the nature of the U.S. Constitution affects the process of legislation, we witness a multifaceted and complex issue. There are a number of undemocratic elements within the legislative and electoral process of the federal government. The first of these is the system of electing two senators to Congress regardless of differences in population size, creating an inequality of voting influence. The second feature is that of the three-fifths majority required to pass a cloture motion, a facet that has a direct effect on the legislative process.

Although the president is afforded with a number of significant powers, there is a notable deficiency in presidential influence in the domestic arena. The executive branch benefits from its role as commander-in-chief in times of war. The greater influence that the president has during war time, combined with the perception that the office is stronger in the foreign policy arena, has perpetuated the notion that the executive branch has little power in the implementation of domestic policy. Further to this, the presidency has suffered from an ongoing weakening of its powers. While the trimming of the office's formal powers has added to the public perception of a weak executive branch, the sharing of the budgetary process with the CBO has had a tangible effect on presidential influence in Congress. Lastly, with the advent of the profit driven modern mass media, the presidential office now suffers from a void in its ability to influence the American public.

Chapter Two: Lessons From History

Trial and Error – The Clinton Administration

This section will deal primarily with a discussion on the failures of a number of presidents to enact comprehensive health care reform. This will allow a clearer understanding of the problems faced by the Obama administration in its attempt at reform. The investigation will focus primarily on President Clinton's attempt at reform as this is the most recent, and therefore most relevant example.

Looking first at the Obama administration's successful reform, *The New York Times* notes that the passage of the 2010 health care reform bill:

"...assures Mr Obama a place in history as the American president who succeeded at revamping the nation's health care system where others, notably Harry Truman and Bill Clinton, tried mightily and failed. Republicans would like it to assure that Mr. Obama is a one-term president as well" [39]

Not only does this highlight the significance of the successful passage of the legislation, focusing on the failure of previous presidents to pass reform, it also alludes to the notion that there was and continues to be significant opposition to it, even following its passage. The implications of this are discussed in detail in Chapter 4.

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We will now look in some depth at President Clinton's failed attempt at health care reform in order to better understand the challenges faced by the Obama administration. Joshua Wiener et al state that:

"...the Clinton administration struggled with many of the basic policy choices that must be decided in all reform efforts, including whether initiatives should be limited to older people or apply to people of all ages, how to balance institutional with non-institutional care, whether to rely on government programs or the private sector, and how to control costs." [40]

From this it is clear that this previous attempt at reform suffered from what we can assert was essentially a lack of direction in detailed policy. Examples of the details of Clinton's so-called Health Security Act are the creation of a state-run care program for disable people of all incomes, a slight relaxation of eligibility for Medicaid nursing home benefit and tax credits for the long-term care expenses of non-elderly disabled workers [41]. The focus on care for the elderly seen in these examples, continues to emphasise the notion that Clinton's version of health care reform suffered from a lack of focus regarding tackling the major problems of health care in the United States. Ergo, the lack of direction can be seen to have stemmed from an inability to look at the bigger picture of the health care problem in the United States. This is a topic that is discussed in an article from *The Economist* (February 23rd 2010), where it is claimed that the Clinton attempt at reform failed due to the "micro-managed" nature of the administration's approach [42].

There are also a number of other factors that led to the defeat of Clinton's bill in Congress. Prior to the introduction of the health care proposal, the Clinton administration had already suffered from two significant policy defeats. Peter Suedfeld discusses this:

"... [the economic stimulus package] went down to utter defeat... [and the tax bill] was greatly altered from what the president originally wanted." [43]

These prior defeats significantly weakened the president in the eyes of a public who, as discussed in Chapter One, had little belief in the ability of the executive branch in the process of domestic legislation. It made the potential passage of comprehensive health care reform significantly more difficult to achieve. It is also possible to attribute the lack of decisive and expansive direction to the proposed reform, to fears that a more controversial proposal would face a much harder debate in Congress. When looking at this in relation to the Obama administration's 2010 plan, we observe a somewhat contrasting situation. Not only was the president riding a wave of public expectation following his election, but he had successfully pushed a comprehensive stimulus package through Congress, returning the country's economy to growth. However delicate that growth may have been, it is difficult to argue that Obama's situation was not far more favourable to the one that Clinton faced in 1993.

Joshua Wiener highlights an important aspect of the failure of the Clinton plan:

"... higher-level state executives (e.g., governors and budget directors) had significant reservations, particularly about the potential fiscal impact. The financial risks for the states, combined with the lack of fiscal relief, meant that state budget officials had little reason to champion the plan." [44]

The lack of support on a state level detailed here gives us an essential insight into not only the failure of the Clinton reform plan, but also the difficulty faced by the Obama administration. In 1993 the United States faced a deficit of \$255,051 million. The deficit in the first year of the Obama administration (assumed office January 20th 2009) was more than five times this (\$1,412,688 million) [45]. If the financial implications of health care reform were significant in 1993, they were paramount in 2010.

From the above discussion we are able to identify a number of important factors in the failure of the Clinton health care plan. The most significant of these can be seen as a lack of decisive direction, a negative perception of the White House in the legislative process following a number of failed bills and a vacuum of support based primarily on financial concerns. However, the health care situation in the United States has only worsened since Bill Clinton's failed reform proposal, with the percentage of Americans without health insurance rising, personal medical

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expenditure making up an increasingly large portion of Americans' budgets and the proportion of GDP devoted to health growing by the year[46]. These factors combined, make a compelling case in favour of 'Obamacare'.

Chapter Three: The Difficulties of Reform

3.1: The Problem with Health Care and the Process of Reform

The year 2008 marked a historic moment in the politics of the United States. The little known Senator from Illinois, with his victory in the January Iowa Caucus, a state with a 95% white population, showed that the United States was once again ready to give a Democratic candidate their support for the presidency[47]. The high level of public confidence clearly continued throughout the election process, with the Democratic candidate gaining 365 Electoral College votes to the Republican candidate John McCain's 163. However, important as this victory was, it is not the key to Democratic success with health care reform. The Democrats also gained a majority in both houses of Congress; achieving 56 of the 97 seats in the senate and 256 out of 434 seats in the House of Representatives[48]. That meant that the Democrats had control of both the Legislative and Executive branches of the government, allowing them to plan a comprehensive left wing health care overhaul. But despite their victories, the Democrats were still forced to make significant concessions in order to pass health care reform.

This section will deal primarily with the reasons for opposition to the Obama administration's health care reform bill. BBC News notes that "six months after the most significant overhaul of the US healthcare system in decades passed into law, President Obama is still trying to convince Americans of its merits"[49]. The significance of this should not be understated. Opposition to health care in the United States during and even following the passage of the legislation was significant. The clearest and most telling example of this is the repeal of the reform by the now Republican controlled Senate.

The full force of Republican opposition to Barack Obama and the Democratic Party's health care overhaul is embodied by the symbolic move by the newly elected, Republican controlled, House of Representatives to pass a bill to repeal the reform. The act not only demonstrated their gains in Congress, but also fulfilled a key promise to Republican voters in the November mid-term elections[50]. This event is given greater significance when we consider that the perceived cost of health care to a country already suffering from a large deficit can be deemed to have played a considerable role in the Democrat's loss of the House. In short, at least in some respect, the Republicans were able to pass a bill repealing the health reform, largely due to the fact that it passed.

Not a single Republican Congressman voted in favour of the reform, pledging to repeal it if they gained a majority Congress. On January 19th 2011, the House of Representatives voted 245 to 189 in favour of repeal[51]. Although the bid was later defeated by Senate Democrats 51 to 47, just 13 votes short of the 60 needed to advance their proposal, the significance should not be understated. Although, as previously stated, it was a largely symbolic move, the House vote to repeal signals a significant shift in the distribution of political power and opinion in Washington.

Taking a broad overview of the reasons behind this opposition, we can see that there are deep seated differences of opinion between Democrats and Republicans regarding the changes that are needed and how they should be implemented[52]. The fundamental problem that Republicans have with the reform is that they believe it will make healthcare more expensive and bureaucratic[53]. They claim that it will impede job creation and give the government too big a role in the health care system. Conversely, Democrats refute the claim that it will incur greater cost, citing the Congressional Budget Office's projection that the law would reduce future deficits[54].

There are a number of strong arguments in favour of the health care system in the United States. One of the key arguments against reform is that of the potential lowering of the quality of care. The level of expenditure of private health care is comparatively low in the United Kingdom when compared with the United States and a number of EU countries. The general standard of care, particularly in regards to chronic illnesses, is significantly below that of countries that spend more on private sector care, such as the United States[55]. Judith Allsop has undertaken a number of studies regarding differing health care systems and notes that:

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“Some critics argue that the availability of free health services actually encourages unhealthy life styles as there are no costs associated with ill health”[56]

This is a key argument against the Obama administration’s reform plan, with opponents citing the lower quality of care observed in countries such as the United Kingdom as a reason not to adopt the proposed reform. However, this can at least to some degree, be regarded as a political tactic, as the reform does not create a welfare state like that seen in the U.K.

Turning now to the financial situation at the start of and during the passage of the bill through Congress, an article in *The Economist* on February 4th 2010 discusses the dire state of the U.S. economy in 2010:

“It was never reasonable to expect that Barack Obama’s budget proposal, delivered to Congress on February 1st, would do much to bring down America’s vast deficit in the near term. True, the economy has returned to growth... [but] consumers are still struggling with the collapse in the values of their homes and other assets. And unemployment stands at a stubborn 10%”[57]

The economic problems detailed here are only part of the problem; the United States suffers from a number of significant underlying issues that become far more visible in times of financial difficulty. The key examples of this are that unemployment benefit is far more limited than in other developed nations and that most states are legally barred from running deficits[58]. This second factor means that during periods of economic downturn they are left with no choice but to make significant cuts, a large number of which take the form of ending programs and firing workers[59]. This not only adds to the financial problems of the country as a whole, but also makes it the responsibility of the federal government to pull the country out of recession. The deep seated economic problems that the United States faces in times of recession can be seen to put a huge amount of pressure on the president to act in a financially prudent manner. This notion is key to our investigation. As we will continue to discuss throughout this investigation and in the remainder of this chapter; owing to the \$1.56 trillion deficit[60] of the 2010 fiscal year, the financially dire situation of the United States can be seen as a key factor in the opposition to health care reform under the Obama administration.

During the reform process we witness a number of key events that give us an insight into the inherent fragility of the passage of the reform. An important example of this can be seen in the election of Scott Brown in the senatorial race in Massachusetts in January 2010. Brown’s victory in the race to succeed the late Ted Kennedy, is significant due to the extremely tight vote that the Senate version of the health care bill had received in favour of reform. The Senate bill, despised by many liberals for including a controversial tax on ‘gold-plated’ insurance schemes, had passed through the upper chamber with just 60 votes, the minimum needed to overcome a Republican filibuster[61].

Although the implications of this election are clear, the political tactics adopted by House Democrats following it, gives us a greater insight into the turbulent political situation. Immediately following the election of Scott Brown, discussion turned to the possible use of procedural and political manoeuvres, more specifically: the use of “budget reconciliation” to pass the reform, requiring only 51 votes to pass through the Senate[62]. This procedure was seen as controversial by Senate Republicans who argued that not all of the amendments that were put forward in the reconciliation bill fitted the criteria for the vote. The potential use of the reconciliation manoeuvre also highlights the president’s desperation to pass reform; Obama initially ruled out its use and later condoned it. On January 20th 2010 “Mr Obama himself appeared to rule it out”[63]. However, by March 4th 2010, the president had not only embraced several Republican proposals (such as measures to fight insurance fraud and reform malpractice laws), but he had completely reversed his position on the procedural manoeuvre:

“...he [Obama] made it clear that he now wants Democrats to forge ahead with whatever procedural manoeuvres are necessary to pass his health bill... he declared that he wanted to see “an up-or-down vote” in the “next few weeks” [64]

Here, Obama’s reversal of his position on reconciliation combined with his eagerness for a final verdict clearly, highlights some degree of desperation to pass the reform. We can attribute this to one important factor: the political

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ramifications of failure. By this stage in the legislative process, Obama had to all intents and purposes, placed his hopes of re-election on the passage of the still tenuous reform.

Republican opposition to the reform at this stage in the process was still universal. On March 4th 2010, John Boehner, the Republican leader in the House, was still in favour of completely dismissing the Democrat's version of reform. Instead he, like many Republicans, still preferred the notion of a "step-by-step" reform[65]. Predictably, notable Democrats such as Senator Ron Wyden, claimed that the type of reform that Boehner was proposing simply would not work due to the fact that it "does less but costs more"[66].

Another important event in the build up to the successful passage of the bill was Obama's promise regarding the funding of abortions. An article from *The Economist* on March 22nd 2010, in reference to continued opposition of some Democrats, stated:

"... the crucial holdouts were a block of anti-abortion Democrats led by Bart Stupak of Michigan. This group worried that the Senate bill's provisions on abortion were too liberal."[67]

The issue was finally resolved on March 21st 2010 when the president issued an executive order confirming that the new law would not allow federal funding for abortion[68]. This occurrence is significant in two ways. Firstly, it is another example of Obama doing what ever is necessary to pass the bill into law, and secondly, it shows Democratic opposition to the bill.

The final thing that it is important to note in this section is what was lost in the adoption of the Senate's versions of the bill: the provision for a government-run insurance option.[69] Matt Miller from *The Washington Post* comments on this, stating that Obama "Tossed the public option overboard in health care's legislative endgame"[70]. The public option of health care reform was an important aspect of the Democratic proposal and is a concession that once again highlights the desperation of the president to pass the bill.

Although getting there was far from easy, on 25th March 2010, the Senate passed the health care reconciliation bill. The final part of the law passed 56 votes to 43, where 51 votes were required.

3.2: The Final Bill

Having looked at the procedural and political manoeuvring that formed the process of passing the final version of the bill, we will now look at the actual content of the law and its expected financial implications.

We will begin by looking at what was proposed by the president on Monday February 22nd 2010. Prior to this date, Obama had allowed Congress to come up with the specific proposals of the reform, clearly exercising the previously discussed power of the president to influence the topic of political debate in Congress (Chapter 1). However, it is here that we see Obama challenging the limitations of the presidential office, by becoming directly involved in the legislative process by setting out a number of his own proposals. The key features of the the president's proposal were not dissimilar to the bill passed by the Senate just before Christmas 2009. One of the primary goals set out was a restructuring of the health insurance market, with individuals facing a requirement to take out coverage and employers being mandated to provide it. As well as this, Obama's plan would see an extension of certain special deals that Democratic leaders had been forced to make, in order to pass the Senate bill. This can be seen when "Nebraska Senator Ben Nelson refused to join the caucus unless the federal government paid for his state's extra costs for Medicaid"[71].

The fact that Obama felt that it was necessary to directly intervene in the legislative process provides us with further evidence of the mixture of determination and even desperation to pass health reform, present in the White House and the Democratic party as a whole. *The Economist* provides us with noteworthy commentary on the actions of the president:

"Despite the obstacles, Democrats now seem eager to push a package through. One reason, Mr Obama argued, is

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to prove to a cynical public that the federal government works: "At stake right now is not just our ability to solve this problem, but our ability to solve any problem". "[72]

This extract and the quote contained within it are essential evidence for this investigation. Not only does it detail the eagerness of the Democratic party to pass the reform, but it also makes an important reference to the notion that the presidential office of the United States is perceived by the American public to be weak in the domestic arena. This is a notion that is discussed in depth in Chapter One.

The final version of the bill, following the successful passage of the reconciliation bill through the Senate, set out a clear timetable of reform. A number of important changes took place in 2010, including the coverage of children on their parent's plans until the age of twenty-six and a ban on the refusal of coverage to patients with pre-existing conditions. As well as this, insurers were immediately barred from removing coverage when a person becomes ill and small businesses were able to receive tax credits to purchase insurance for their employees[73]. Other notable changes include an increase of Medicare payroll taxes on individuals earning more than \$200,000 per annum in 2013, the requirement for most Americans to take out insurance or face paying a fine in 2014 and the elimination of the prescription-drug coverage gap by 2020[74]. The details and implications of the reform are discussed further in Chapter Four.

Turning now to the financial implications of the bill, an article in *The Economist* on May 25th 2010 states:

"The CBO's analysis [of the final version of the bill] suggests that the federal deficit will be slashed by well over a trillion over the next two decades by this reform. That suggests the reform effort is fiscally prudent"[75]

Although the prediction here looks upon the reform plan extremely favourably from a financial perspective, it should be noted that Republicans almost universally discredited it, claiming that the estimated \$940 billion price tag attached to the reform was wildly inaccurate. Instead they believe it will cost somewhere in the region of \$1.6 trillion[76]. Despite this, due to the paramount importance placed upon the fiscal impact of health reform on an already huge federal deficit, the CBO prediction detailed above can be seen as extremely significant to its passage.

3.3: Continued Opposition and the 'Party of No Ideas'

This section will look at a number of other important factors in the process of the reform. The first of these is the continued opposition to the reform, following its successful passage through Congress. The investigation will then turn to look at the Republican party's alternatives to 'Obamacare' and the notion that opposition is merely a political tactic.

We will look first at the so-called individual mandate, a provision under which all American citizens must buy health insurance or face paying a fine (through taxation)[77]. This policy is fundamental to the Democrat's plan to cover more than 30 million uninsured citizens, due to the fact that insurers claim that "only by requiring healthy people to have policies can they afford to treat those with expensive chronic conditions"[78]. This provision has been the subject of a great deal of the 20 plus challenges to the reform around the country, largely put in action by Republican attorneys general and governors[79].

By February 2011, two judges had found the case unconstitutional and three had upheld the mandate. At the time of writing, the issue is in the process of being decided upon by the Supreme Court[80]. However, it is here that we see an important development in the narrative of the reform process, when President Obama says that he is willing to amend the measure in order to give states the ability to opt out of the most controversial requirements of the bill, including the mandate that most people must buy insurance[81]. This was said with the caveat that states must find another way to expand coverage without driving up health care costs. This would allow states to acquire waivers from the mandate as soon as it takes effect in 2014, a full three years earlier than the original date stipulated in the reform bill[82]. Although Obama has backed specific tax provisions that both parties regard as damaging to small business, this is the first time that he has called for any alteration of the central components to the health care law, since signing the bill[83]. The significance of this is that even after the Democrats have managed to pass health care

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reform law, they are still being forced to propose amendments in order to keep it safe from repeal by Congress or from the potential of being declared unconstitutional by the judiciary.

A strong argument made by Democrats is that Republicans have repeatedly failed to produce a health care reform proposal. *The Washington Post's* Erza Klein comments on this:

"It's put-up-or-shut-up time for Republicans. They managed to make it through the health-care debate without offering serious solutions of their own, and – perhaps more impressive – through the election by promising to tell us their solutions after they'd won. But the jig is up. They need a health-care plan – and quickly." [84]

The primary notion here is that despite the myriad of strong objections, Republicans are yet to put forward a clear and concise plan for health care reform in the United States. However, as columnist Jennifer Rubin notes, this is simply not the case. The Republican alternative is decidedly more developed than the Democrat's claim, and contains a number of common features. These include the conversion of Medicare into a defined-contribution plan, the blocking of grant Medicaid, enacting real tort reform, allowing interstate sales of insurance, providing tax credits for purchase of insurance plans and the expansion of health savings accounts [85]. These are common features of both the alternative to Obamacare put forward by House and Senate Republicans during the health care debates in 2010 and the proposal by the then-presidential candidate John McCain. The Republicans would also change the definition of 'insurance' in health care reform. The Democrat's reform plan defines exactly what type of health care insurance is included, in what it perceives to be minimum acceptable coverage, calling it a 'defined contribution' plan [86]. The Republicans would change this to what they call a *true* defined contribution plan which allows individuals to purchase whatever insurance they want, rather than a government defined package [87]. Republicans also favour a provision for sales of health care insurance across state lines, as well as helping small businesses band together to buy insurance, promoting the use of health savings accounts in combination with high-deductible insurance policies and the limiting of damages in medical malpractice suits [88].

However, Republicans are notably reluctant to propose a plan that covers as many uninsured Americans as the Democratic plan does (thirty million), with the most comprehensive GOP plan covering just three million of the country's fifty million uninsured [89]. This reluctance is purely political; as Matt Miller highlights, "the GOP does not view the presence of 50 million uninsured in a wealthy nation as an issue that needs to be addressed" [90] as statistically the poorer Americans, those that the reforms benefit the most, traditionally vote for the Democratic Party.

Despite this, it is important for us to consider the reason for the perception that Republicans are not interested in proposing an alternative to Obamacare. The explanation is that "the 'party of no ideas' is simply an ingrained talking point that requires no factual underpinning" [91]. That is to say, it is a notion that is deeply embedded into American politics and one that the Democrats have nurtured. Here we are able to assert that the power of the president to influence the opinion of the American public has not faded entirely; the somewhat false perception of the Republican party has not dissipated. However, here we must consider two things: that the idea of the 'party of no ideas' did not originate in the Obama administration but rather it is a long standing notion, and secondly that it is the whole Democratic party, not just the president, that perpetuates it.

Matt Miller highlights another important notion; that the debate following the passage of health care reform is merely a political tactic:

"Right now the 'debate' over Obamacare is a symbolic ruse. Republicans are blaming health reform for all manner of ills even though the thing doesn't even get off the ground until 2014. If the president said, 'Okay, John Boehner, you bet, now that you're in power, as soon as you pass a version that covers the same number of people for less, I'll be happy to put my approach aside and cut a deal,' he'd remind Americans about the discussion Republicans refuse to have." [92]

The notion that Republican opposition to health care reform is purely a political tactic is one that it is extremely important to consider when discussing why the Obama administration had to make significant concessions, most notably the aforementioned removal of the public option, in order to pass the bill. As we have previously discussed,

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Republicans stood to gain little from the passage of a health care reform plan that most significantly benefits the poorest, currently uninsured, segment of American society. In short, Americans who would normally vote for the Democrats have no incentive whatsoever to change their voting attitude following the passage of a reform from which they benefit, that has taken place under a Democratic administration.

Lastly, it is important to discuss the aims of the newly elected, Republican controlled, House of Representatives in relation to their goals regarding the health reform package. *The Washington Post* states that in the week beginning the 28th February 2011, Republican Congressmen launched the first of what they claim will be a series of attempts "to use the House of Representatives to de-fund the health care overhaul law"[93]. It is obvious that the primary goal of House Republicans is to make every effort to repeal health care reform, and steps have already been taken in that direction. An example of this can be seen in how Rep. Denny Rehberg offered an amendment to the budget bill that will fund the final seven months of the 2011 budget which prohibits the executive branch from using the money to begin implementing the reforms[94]. However, not unlike the repeal bill passed by the House, budgetary limits such as this are largely symbolic. This is due to the fact that the vast majority of funds that the federal government requires to implement the law were appropriated in the law itself. This means that barring a substantial loss of support from Senate Democrats, the reform is safe from repeal.

Overall, there are a number of compelling arguments made by Republicans in Congress against the reform. The most notable of these are the notions that the bill would lead to a more expensive and bureaucratic health care system and that the quality of care would be lowered. These notions provide us with two important facts in regard to the reform process: firstly that financial implications of the bill were of paramount concern in Congress, and secondly that Republican opposition to the reform can be seen, at least to some degree, as political. The changes to the health care system, as detailed in the reform plan, would not change the American system into a welfare state as is witnessed in the United Kingdom, and the quality of care would therefore not drop accordingly.

Added to this, there are a number of important moments during the passage of the various versions of the reform bill through Congress. The first of these can be regarded as the election of Scott Brown to the late Ted Kennedy's chair in the Senate. The Republican's victory changed the face of the reform process, effectively forcing Obama and the Democrats to use a procedural manoeuvre known as reconciliation, in order to avoid the three-fifths majority required to obtain a cloture motion. The second key moment is Obama's own proposal for the bill. This is significant as it not only serves as an example of the president pushing the boundaries of the office, but also of the desperation and determination to pass the reform: such was its significance to his re-election hopes.

However, when looking at the specific reasons for the bill's eventual successful passage through Congress, we must return to its financial implications. The CBO's positive prediction of the final version of the bill's impact on the federal government's fiscal deficit, can be seen as extremely influential in its passage. The second key factor is the use of the, perhaps somewhat controversial, procedural manoeuvre of reconciliation to pass the bill in the Senate.

When relating this to the inherent and ongoing weakening of the White House, we are able to observe a number of telling examples. Firstly, the president was forced to make a number of significant concessions in order to pass the reform. These included the confirmation that the reform would not lead to state funded abortions, the loss of the public option through the adoption of the Senate version of the bill and perhaps most notably, the degree of flexibility for state autonomy on the issue of the individual mandate. Secondly, the use of the procedural manoeuvre to avoid the three-fifths majority required to pass a cloture motion highlights the undemocratic nature of the Constitution, designed to protect the rights of the minority.

Chapter 4: Implications

Holding on to Power

Although the passage of the Obama administration's health care reform package does mark an impressive political victory in the face of significant opposition, it is also where the president has placed all hopes of winning the upcoming 2012 presidential election:

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“... [the passage of the bill through Congress] assures Mr Obama a place in history as the American president who succeeded at revamping the nation’s health care system where others, notably Harry Truman and Bill Clinton, tried mightily and failed. Republicans would like it to assure that Mr. Obama is a one-term president as well.”[95]

In the wake of a global recession, it is impossible to argue that passing comprehensive health care reform is not free from political risk. The passage of the costly legislation has given Republicans a great deal of ammunition; the GOP is usually regarded as the fiscally irresponsible party.

When discussing Mr. Obama’s re-election prospects and the effect of health care reform on them, it is important to consider the prevalent and recurring theme regarding incumbent presidents. Since the Second World War, only three sitting presidents have lost a re-election bid: Gerald Ford, Jimmy Carter and George Bush senior. All three of these lost to well respected senior primary opponents[96]. Although there is some disgruntlement on the left, a challenger akin to those that defeated Ford, Carter and Bush senior seems decidedly unlikely in the 2012 election.

An article from *The Economist* on February 23rd 2010, states that “Health reform has been the Obama Administration’s main domestic policy priority for nearly a year”[97]. As previously discussed, the Obama Administration has placed practically all its hopes for re-election in the 2012 presidential election on the success of the health care reform bill. It is difficult to argue that it is not an impressive achievement when the numerous failed attempts of prior presidents are taken into account. Some parts of the law have already come into effect at the time of writing, examples of which include a provision to forbid insurers from denying coverage to children with pre-existing conditions and from imposing lifetime payout caps on any individual[98]. The speed of the implementation of these parts of the law can be attributed primarily to an effort by the administration to win greater popular support for the law prior to the upcoming presidential election. However, there are strong signs that suggest that this method is simply not working. The following extract from an article in *The Economist* discusses the results of a poll by the Kaiser Family Foundation (KFF):

“Roughly half of those polled by KFF thought Obamacare had already been repealed or were unsure of its legal footing.”[99]

Although we can attribute the confusion regarding the continued validity of the law to the newly elected House’s symbolic act of repealing the law, the results of the poll should be taken as extremely alarming to the Obama administration. The fact that such a large proportion of the population is unaware of the status of the successful reform shows unequivocally, that the wider population are not yet receiving, or perhaps are not yet aware that they are receiving, the benefits garnered upon them by the new law.

Looking in greater depth at the various steps of the implementation of the reform will allow us to better gauge its effect on the 2012 election. We will look first at the section of the bill that took effect in 2010. Added to the factors previously discussed in this chapter, small businesses were afforded tax credits to assist in the purchase of coverage for their employees. In addition, insurers are no longer able to remove coverage from individuals if they become ill and Medicare prescriptive drug beneficiaries now received a \$250 rebate when they reach the infamous “doughnut hole” gap in coverage (this is the coverage gap between \$2,700 and \$6,154 in costs). Although these changes are significant, from the KFF poll that we have previously discussed, it is clear that the public suffers from a lack of awareness regarding them.

Turning now to the provisions of the law that are to take place from 2011 onwards, we observe a great deal of changes to the system. The current year (2011) will see a requirement for insurers to spend a minimum of 80 percent of premiums on medical services, as well as a 50 percent discount on brand-name drugs for Medicare prescription-drug beneficiaries while in the doughnut hole. 2013 will see a significant increase in Medicare payroll taxes for those earning over \$200,000 (and families earning \$250,000). However, it is not until 2014 that the most significant changes will take effect. It is then that most Americans are required to obtain coverage or face paying a fine, families will be given subsidies to help buy insurance (providing that they earn below four times the federal poverty level) and state insurance exchanges will begin to operate, providing a marketplace in which small businesses and individuals can take out cover. As well as this, businesses with more than fifty employees must provide coverage or will face

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paying a penalty, insurance companies will no longer be able to refuse coverage to an individual and they will be severely limited in their ability to set prices based on health status. Looking further into the future there are two other major milestones: the 40 percent excise tax on so-called 'gold-plated' insurance plans (\$10,500 for an individual and \$27,500 for a family) will take effect in 2018 and the Medicare prescription-drug coverage gap will be eliminated in 2020.

From this time frame for the implementation of the reform, we can clearly see that the most significant changes will not be in place prior to the 2012 presidential election. And although it is better for the Democrat's that certain provisions (most notably the excise tax) will not have taken effect, it is likely that the American public will still not be well enough educated on the reform to fully appreciate the benefits that it garners upon them. Medicare beneficiaries in particular are likely to make the point that the \$250 rebate does little to address the problem of the doughnut hole, even though the law eliminates this issue by 2020.

An essential notion to consider here is that of the permanent campaign. Fiorina discusses this:

"...the next election campaign begins as soon as the last one has finished, if not before... [and] every action undertaken – or not undertaken – by... Congress... was viewed as a potential issue in the upcoming presidential campaign." [100]

It is undoubtedly that the Democrat's loss of control of the House of Representatives in the mid-terms can be attributed to the unpopular nature of health care reform. However, a more significant question is whether the substantial benefits of the reform will become apparent to the wider American public before the 2012 election. As previously discussed, the changes that have already taken effect, have had very little impact on public perception of the law.

Overall, if Mr Obama wishes to hold on to the White House for a second term, he must better educate the American people on the benefits of health care reform, emphasising the myriad of changes that are due to come into effect from 2014 onwards. However, given the recent depletion at the hands of the modern mass media, of the president's ability to influence the opinion of the wider public, this will be no easy task.

Concluding Notions

This investigation has identified a wide range of factors that contributed to the difficulties faced by the Obama administration in passing health care reform. These led to a number of significant concessions and omissions. There are a number of features of the federal system (most notably the unequal representation in the Senate and the three-fifths majority required to pass a cloture motion) that create significant problems in relation to the passage of comprehensive and controversial bills. These facets have the purpose of creating a system of unequal representation that protects the rights of the minority. Added to this, due to the going weakening of the powers of the executive branch (largely at the hands of Congress), the American public have obtained a perception that the presidency is weak in the domestic arena, a notion that has only been perpetuated by the numerous failed attempts of prior presidents to pass reforms of the health care industry.

The second key factor in the difficulties faced can be seen as the inherent complexity of the issue. There is a strong notion, and one that is championed by Republicans in Congress, that suggests that the system seen in the United States has a number of significant benefits, perhaps most notably the protection of the quality of care. However, the comparisons made in this argument are typically with countries in which welfare states exist. Due to the fact that the reform does not institute a system such as this, we can regard arguments such as this that favour the American system, as largely political tactics. However, factors such as the level of state autonomy afforded in the bill and moral issues such as federally funded abortion can be seen key obstacles that had to be overcome during the legislative process of reform.

Throughout the discussions and disagreements that occurred as the various versions of the bill moved through the House of Representatives and the Senate, the overriding and paramount factor was the financial implications of the

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proposed legislation. The federal deficit at the time of the Clinton administration's attempt at reforming health care, can be seen as a key factor in its failure. From this it is difficult to see how a deficit in 2010 some five times the size of the one faced in 1993 could not have taken centre stage in the discussion of the costly reform. As such, we can define the CBO's positive prediction of the impact of the bill on the federal deficit as a key factor in the success of the reform.

Finally, turning to the impact that the passage of the legislation is likely to have on the upcoming 2012 presidential election, we are able to assert that President Obama faces a distinctly uphill battle. The results of the recent KFF poll clearly indicate the American public is woefully ill informed on the benefits garnered upon them by the reform. It is likely that this situation will only be perpetuated by the fact that the most significant aspects of the law such as the instigation of the insurance marketplaces, do not take effect until 2014 onward.

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